



# INTENT LANGUAGE AND NONLAPSING BALANCES FOLLOW-UP (HEALTH)

SOCIAL SERVICES APPROPRIATIONS SUBCOMMITTEE  
STAFF: RUSSELL FRANDSEN

## ISSUE BRIEF

### **SUMMARY**

The objective of this issue brief is to determine if the Department of Health complied with the 53 intent language statements adopted by the Legislature during the 2016 General Session and 20 intent language statements from the 2015 General Session that had impacts through June 30, 2016. This issue brief provides a follow up to each of the pieces of intent language passed. The Analyst has no concerns of non-compliance. Additionally, the purpose of this issue brief is to inform the Social Services Appropriations Subcommittee of \$19,358,300 in nonlapsing balances at the end of FY 2016 for the Department of Health. This review is to comply with the following from UCA 36-12-13(2)(f): “to report instances in which the administration may be failing to carry out the expressed intent of the Legislature.” This brief is for informational purposes only and requires no Legislative action.

### **DISCUSSION AND ANALYSIS**

#### ***Intent Language Overview***

The Analyst has no concerns of non-compliance with any intent language issued last year. This review helps fulfill the duty assigned to the Legislative Fiscal Analyst in [UCA 36-12-13](#) that states “report instances in which the administration may be failing to carry out the expressed intent of the Legislature.” The following is a list of 53 legislative intent statements from the 2016 General Session with the Department of Health’s response or comments by the Analyst. Intent language may be adopted by the Legislature to explain or place conditions on the use of funds. Intent language is binding for one year and may not contradict or change statutory language. Follow up to intent language related to ARRA (federal stimulus) funding can be found in the Issue Brief entitled “*ARRA Funds Approval*.” The Subcommittee may want to direct the agency to take further action on the information presented in the reports requested by the Legislature.

#### ***Overview of Intent Language From the 2016 General Session***

There are 53 intent language statements reviewed below. These 53 statements can be grouped into the following three categories:

1. Providing nonlapsing authority of \$15.8 million in FY 2017 from FY 2016 funds (18 intent language statements). Three intent language statements provided unlimited nonlapsing authority. The table below details the \$17.0 million retained under nonlapsing authority provided. The Department of Health has \$14.6 million in nonlapsing funds from the intent language statements with specific maximums.
2. Providing specific direction (11 intent language statements)
3. Requiring a report (24 intent language statements)
  - a. Sixteen of these reports are for performance measures

Agency-initiated requests for nonlapsing authority for General Fund resulted in 2.9% of General Fund appropriated in FY 2016 being retained as nonlapsing funds for those divisions with initiatives for nonlapsing authority. The second table below has a summary of this information. Some of the nonlapsing requests listed on the page below were to retain funds other than General Fund or were not initiated by the Department of Health.

| Nonlapsing Authority Via Intent Language                        |                      |                      |
|---|----------------------|----------------------|
| Purpose   | Authorized Total     | Actual Nonlapsing    |
| Medicaid Management Information System Replacement              | \$8,800,000          | \$8,800,000          |
| Children With Complex Medical Conditions (2015 General Session) | \$3,216,000          | \$2,959,700          |
| Childcare and Health Care - Fines                               | all                  | \$1,008,200          |
| Medicaid Sanctions  | all                  | \$982,900            |
| Laboratory Equipment and Medical Examiner                       | \$525,000            | \$525,000            |
| Federally Mandated Projects (Medicaid)                          | \$475,000            | \$415,700            |
| Emergency Medical Services - Fines                              | all                  | \$415,300            |
| Executive Director - Four Projects                              | \$400,000            | \$400,000            |
| Drug Prevention Programs  | \$500,000            | \$286,900            |
| Emergency Medical Services - Fees                               | \$250,000            | \$250,000            |
| Newborn Screening   | \$250,000            | \$250,000            |
| Health Facility Licensure                                       | \$245,000            | \$245,000            |
| Facility Plan Review Activities                                 | \$210,000            | \$210,000            |
| Laboratory Equipment (Epidemiology)                             | \$175,000            | \$175,000            |
| Bleeding Disorders Program                                      | \$50,000             | \$50,000             |
| Local Health Emergency  | \$25,000             | \$25,000             |
| Traumatic Brain Injury Funding                                  | \$725,000            | \$300                |
| <b>Total</b>  | <b>\$ 15,846,000</b> | <b>\$ 16,999,000</b> |

| Summary of Agency-initiated Requests |                                   |                        |             |
|--------------------------------------|-----------------------------------|------------------------|-------------|
| Line Item                            | FY 2016 Appropriated General Fund | Nonlapsed General Fund | %           |
| Medicaid and Health Financing        | \$ 4,905,400                      | \$ 415,700             | 8%          |
| Executive Director's Operations      | \$ 6,339,000                      | \$ 400,000             | 6%          |
| Disease Control and Prevention       | \$ 13,961,600                     | \$ 725,000             | 5%          |
| Medicaid Mandatory Services          | \$ 319,078,200                    | \$ 8,800,000           | 3%          |
| Family Health and Preparedness       | \$ 19,959,600                     | \$ 295,000             | 1%          |
| <b>Total</b>                         | <b>\$ 364,243,800</b>             | <b>\$ 10,635,700</b>   | <b>2.9%</b> |

## Nonlapsing Authority Via Intent Language From the 2016 General Session

### 1. Nonlapsing Authority for Four Projects in the Executive Director's Office (S.B. 3, Item 81):

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Department of Health's Executive Director's Office in Item 10 of Chapter 10, Laws of Utah 2015 shall not lapse at the close of Fiscal Year 2016. The use of any non lapsing funds is limited to \$400,000 for: (1) federal indirect reimbursement of \$200,000 due to an over-collection of Department of Technology Services encryption costs during Fiscal Year 2016 and changes to the Division of State Finance's Statewide Indirect Cost Allocation Plan allocation. The federal reimbursement will be reflected in lower indirect rates for Fiscal Year 2017; (2) Rewrite of the Utah Medical Examiners Database and the Electronic Death Entry Network which do not support mobile device and broad Internet interfaces; (3) Replacement of personal computers, software development, and information technology equipment in Executive*

*Directors Office; and (4) Temporary Information Technology Manager to support server consolidation efforts and implementation of the Change Management initiative. (The agency nonlapsed \$400,000).*

**Agency Response:** "The non lapsing funds will be used as described below:

**In January 2015 DTS posted over-charge cost rebate of \$304,900 in Appropriation unit LAF. This created a reduction of Federal Reimbursement Indirect Collections in FY17 as the FY17 indirect rate is based off of FY15 actuals. A portion of the non lapsing funds are needed to offset the FY17 revenue reduction.**

**A temporary IT manager is needed to support the DOH server consolidation project and implementation of a software Change Management Setup initiative. This process will ensure all new software and changes in existing software systems are compliant with security requirements. Long term savings are anticipated from server consolidation as well as more security.**

**Due to the DOH server consolidation project, IT servers and equipment will need to be replaced and/or updated. Also software upgrades to meet IT security requirements will be required. The EDO line item provides DTS services to all DOH programs.**

**Program Operations is in need of replacement and upgraded IT equipment and further development and expansion of Share-Point management system though out the department. The EDO line item provides financial services to all DOH Programs**

**The Center for Health Data and Informatics is responsible for the rewrite and maintenance of the database in the Office of Medical Examiners which provides vital epidemiology information on disease and cause of death. They are also responsible for the rewrite and maintenance of the Electronic Death Entry Network which does not support mobile devices and broad internet interfaces. They will also need replacement of personal computers and IT equipment."**

## **2. Nonlapsing Authority for Health Facility Licensure and Certification Activities (S.B. 3, Item 82):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$245,000 of Item 11 of Chapter 10, Laws of Utah 2015 for the Department of Health's Family Health and Preparedness line item not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to health facility licensure and certification activities. (The agency nonlapsed \$245,000).*

**Agency Response:** "The bureau will utilize this money to hire one support position to support increased survey activities, one licensing inspection position to keep up with increasing numbers of health facilities, and one position to support the background screening process."

## **3. Nonlapsing Authority for Testing Supplies and Processes for Emergency Medical Services (S.B. 3, Item 82):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$250,000 of Item 11 of Chapter 10, Laws of Utah 2015 for the Department of Health's Emergency Medical Services shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to testing, certifications, background screenings, replacement testing equipment and testing supplies. (The agency nonlapsed \$250,000).*

**Agency Response:** "Nonlapsing authority allows for an improved continuous funding from an irregular funding source. The Bureau used these balances as prescribed in the Emergency Medical Services program to further the efforts of Emergency Medical Services. The funds will be used for EMS certification, background screenings, and on-going training in a four-year certification cycle for all EMS certified personnel."

**4. Nonlapsing Authority for Criminal Fine and Forfeiture Money for Emergency Medical Services (S.B. 3, Item 82):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that criminal fines and forfeiture money collected for the Department of Health's Emergency Medical Services in Item 11 of Chapter 10, Laws of Utah 2015 shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to purposes outlined in Section 26-8a-207(2). (The agency nonlapsed \$415,300).*

**Agency Response:** “Nonlapsing authority allows for funding in accordance with Section 26-8a-207(2). The Bureau will use these balances as prescribed in the Section. The funds will be used for staff support, administration of the grants funds, other administrative costs defined in the chapter, trauma system development, and allocations in per-capita and competitive grants for the provision of emergency medical services.”

**5. Nonlapsing Authority for Civil Penalty Money from Childcare and Health Care Provider Violations (S.B. 3, Item 82):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that civil money penalties collected for the Department of Health's Child Care Licensing and Health Care Licensing in Item 11 of Chapter 10, Laws of Utah 2015 from childcare and health care provider violations shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to trainings for providers and staff, as well as upgrades to the Child Care Licensing database. (The agency nonlapsed \$12,100 for Child Care, \$996,100 for Health Care Licensing).*

**Agency Response:** “Health care civil money penalty funds from nursing facilities are restricted by federal law for use with projects that directly affect patients of nursing facilities. Other licensure civil money penalty funds will be used for training and other projects that benefit health facility providers. No projects have currently been formally proposed, for the use of civil money penalty funds, though the department has discussed one project relating to the Life With Dignity Order for nursing facility residents. Child Care Licensing will use civil money penalty funds for training staff and enhancements to the Child Care Licensing database.”

**6. Nonlapsing Authority for Bureau of Health Facility Licensure, Certification and Resident Assessment for Plan Reviews (S.B. 3, Item 82):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$210,000 of Item 11 of Chapter 10, Laws of Utah 2015 from fees collected for the purpose of plan reviews by the Department of Health's Bureau of Health Facility Licensure, Certification and Resident Assessment shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to plan review activities. (The agency nonlapsed \$210,000).*

**Agency Response:** “This non lapsing authority allows for more continuous funding from an irregular funding source. The nonlapsing funds for Health Facility Licensing/Certification will be used for evaluating health care facility new construction and remodel projects in order to ensure compliance with appropriate health and fire codes in accordance with [state] health facility construction rules. The funds will be used for salaries for architects and inspection staff to complete construction inspections. The funds will also be used for equipment and software upgrades and training for architects and plan review staff.”

**7. Nonlapsing Authority for People with Bleeding Disorders (S.B. 3, Item 82):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$50,000 of Item 11 of Chapter 10, Laws of Utah 2015, funds appropriated for the Department of Health's Assistance for People with Bleeding Disorders Program shall not lapse at the close of Fiscal Year*

2016. The use of any nonlapsing funds is limited to services to eligible clients. (The agency nonlapsed \$50,000).

**Agency Response: "Funds will be incorporated in the distribution of funds for eligible bleeding disorder clients."**

**8. Nonlapsing Authority for Equipment and Services for the Bureau of Epidemiology (S.B. 3, Item 83):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$175,000 of Item 12 of Chapter 10, Laws of Utah 2015 for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to maintenance or replacement of computer equipment, software, or other purchases or services that improve or expand the services provided by the Bureau of Epidemiology. (The agency nonlapsed \$175,000).*

**Agency Response: "\$175,000 was non-lapsed and will be used to develop software improvements to increase capabilities to track and respond to disease outbreaks and other emergency situations."**

**9. Nonlapsing Authority for Local Health Emergency (S.B. 3, Item 83):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$25,000 of Item 12 of Chapter 10, Laws of Utah 2015 for the Utah Department of Health, Division of Disease Control and Prevention shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to local health department expenses in responding to a local health emergency. (The agency nonlapsed \$25,000).*

**Agency Response: "Funding will be provided to Local Health Departments to offset additional expenses resulting from public health emergency situations as they develop."**

**10. Nonlapsing Authority for Equipment for Newborn Screening (S.B. 3, Item 83):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$250,000 of Item 12 of Chapter 10, Laws of Utah 2015 fees collected for the Newborn Screening Program shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to maintenance, upgrading, replacement, or purchase of laboratory or computer equipment and software. (The agency nonlapsed \$250,000).*

**Agency Response: "The Newborn Screening Program will use these funds to purchase new equipment and software to expand and update testing capabilities."**

**11. Nonlapsing Authority for Laboratory Equipment and Building Improvements (S.B. 3, Item 83):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$525,000 of Item 12 of Chapter 10, Laws of Utah 2015 for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to laboratory equipment, computer equipment, software, and building improvements for the Utah Public Health Laboratory and the Office of the Medical Examiner. (The agency nonlapsed \$525,000).*

**Agency Response: "The Laboratory will use the funds to upgrade outdated equipment for the chemistry program, to bring on equipment that will expand testing for the Medical Examiner's Office, and to replace outdated equipment for Enzyme Linked Immunosorbent Assay (ELISA) testing. The OME will use the funds to replace outdated equipment and complete the Utah Medical Examiner Database (UMED)."**

**12. Nonlapsing Authority for Drug Prevention Programs (S.B. 3, Item 83):**



*Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$500,000 of Item 12 of Chapter 10, Laws of Utah 2015, for the Department of Health's Disease Control and Prevention line item for alcohol, tobacco, and other drug prevention reduction, cessation, and control programs shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs or for emergent disease control and prevention needs. (The agency nonlapsed \$286,900).*

**Agency Response:** “The Utah Tobacco Prevention and Control Programs (TPCP) uses evidence-based and comprehensive strategies to reduce tobacco use and tobacco-related disease and death. Strategies include- preventing youth initiation of tobacco use, promoting quitting among adults and youth, eliminating exposure to secondhand smoke, and identifying and eliminating tobacco-related disparities and associated disease, disability and death. Non-lapsing funds will be used to supplement TPCP’s mass reach health communication interventions to increase the reach of targeted messages aimed at reducing tobacco use and increasing quit attempts and the use of cessation services.”

**13. Nonlapsing Authority for Computer Equipment and to Comply With Federally-mandated Projects in Health Care Financing (S.B. 3, Item 84):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends up to \$475,000 provided for the Department of Health's Medicaid and Health Financing line item in Item 14 of Chapter 10, Laws of Utah 2015 shall not lapse at the close of Fiscal Year 2016. The use of nonlapsing funds is limited to compliance with federally mandated projects and the purchase of computer equipment and software. (The agency nonlapsed \$415,700).*

**Agency Response:** “These funds will be expended to replace computer equipment and software and to support the implementation costs of several federally mandated projects in FY 2017 including completion of ICD10 – project to update diagnosis codes, 5010 – HIPAA compliance project, HIT – Health Information Technology to convert provider medical records to an electronic health record, TMSIS – Transformed Medicaid Statistical Information System federal reporting project, 1095 – project to upgrade systems for the Affordable Care Act Information Returns (AIR) program, and SSNRI – Social Security Number Removal Initiative.”

**14. Nonlapsing Authority for Medicaid Sanctions (S.B. 3, Item 85):**

*Under Section 63J-1-603 of the Utah Code, funds collected as a result of sanctions imposed under Section 1919 of Title XIX of the Federal Social Security Act and authorized in Section 26-18-3 of the Utah Code shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to the purposes outlined in Section 1919. (The agency nonlapsed \$982,900).*

**Agency Response:** “Medicaid Sanctions can only be used for specific purposes as outlined under Section 1919 or Title XIX of the Federal Social Security Act and authorized in Section 26-18-3 of the Utah Code. The amount nonlapsed (or a portion thereof) will be used in Fiscal Year 2017 if such purposes arise and are approved during the year.”

**15. Nonlapsing Authority for Program to Serve Children With Complex Medical Conditions (H.B. 2, Item 60)**

*Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$1,000,000 of the appropriations provided for the Medicaid Optional Services line item not lapse at the close of Fiscal Year 2017. The use of any nonlapsing funds is limited to a pilot program for assistance*

*for children with disabilities and complex medical conditions to be used in similar amounts over two years with the goal of serving a similar number of clients over two years.*

**Agency Response: "These nonlapsing funds will be used to fund the pilot program for assistance for children with disabilities and complex medical conditions in FY 2018."**

**16. Nonlapsing Authority for Medicaid Management Information System Replacement (S.B. 3, Item 86):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends up to \$8,800,000 provided for the Department of Health's Medicaid Mandatory Services line item in Item 17 of Chapter 10, Laws of Utah 2015 shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to the redesign and replacement of the Medicaid Management Information System. (The agency nonlapsed \$8,800,000).*

**Agency Response: "The nonlapsing balance of \$8,800,000 will be used for the ongoing redesign and replacement of the Medicaid Management Information System."**

**17. Conditional Funding for Replacement of the Medicaid Management Information System (H.B. 2, Item 59 and S.B. 3, Item 87):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends up to \$300,000 provided for the Department of Health's Medicaid Optional Services line item in Item 18 of Chapter 10, Laws of Utah 2015 shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to the redesign and replacement of the Medicaid Management Information System. (The agency nonlapsed \$0).*

*The Legislature intends that the \$300,000 in Beginning Nonlapsing provided to the Department of Health's Medicaid Mandatory Services line item for the redesign and replacement of the Medicaid Management Information System is dependent upon up to \$300,000 funds not otherwise designated as nonlapsing to the Department of Health's Medicaid Optional Services line item being retained as nonlapsing in Fiscal Year 2016.*

**Agency Response: "During the FY 2016 closeout, the Department was able to carry forward the full \$8,800,000 from the Department's Medicaid Mandatory Services line item. Since the full amount was carried forward from the mandatory line, the Department did not carry forward any funds from the Medicaid Optional Services line for the replacement project."**

**18. Conditional Funding for Traumatic Brain Injury Fund (S.B. 3, Items 81, 83, and 84, and H.B. 2, Item 145):**

*Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$100,000 funds not otherwise designated as nonlapsing to the Department of Health - Executive Director's Operations line item shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is for the Traumatic Brain Injury Fund. (The agency nonlapsed \$300).*

*The Legislature intends that the \$100,000 in Beginning Nonlapsing provided to the Traumatic Brain Injury Fund is dependent upon up to \$100,000 funds not otherwise designated as nonlapsing to the Department of Health - Executive Director's Operations line item being retained as nonlapsing in Fiscal Year 2016.*

*Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$75,000 funds not otherwise designated as nonlapsing to the Department of Health - Disease Control and*

*Prevention line item shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is for the Traumatic Brain Injury Fund. (The agency nonlapsed \$0).*

*The Legislature intends that the \$75,000 in Beginning Nonlapsing provided to the Traumatic Brain Injury Fund is dependent upon up to \$75,000 funds not otherwise designated as nonlapsing to the Department of Health - Disease Control and Prevention line item being retained as nonlapsing in Fiscal Year 2016.*

*Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$550,000 funds not otherwise designated as nonlapsing to the Department of Health - Medicaid and Health Financing line item shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is for the Traumatic Brain Injury Fund. (The agency nonlapsed \$0).*

*The Legislature intends that the \$550,000 in Beginning Nonlapsing provided to the Traumatic Brain Injury Fund is dependent upon up to \$550,000 funds not otherwise designated as nonlapsing to the Department of Health - Medicaid and Health Financing line item being retained as nonlapsing in Fiscal Year 2016.*

**Agency Response:** “All funds retained will be used in accordance with the purpose of the Traumatic Brain Injury Fund to provide professional intake assessments, and physical, speech, or occupational therapy services to people with traumatic brain injuries. The goal is to facilitate them returning to school or work or improving their personal functionality.”

**Specific Direction Provided via Intent Language from the 2016 General Session**

**19. Flexibility for Spending From the Medicaid Restricted Account (S.B. 3, Items 86 and 87):**

*The Department of Health may use up to a combined maximum of \$4,600,000 from the General Fund Restricted - Medicaid Restricted Account and associated federal matching funds provided for Medicaid Mandatory Services and Medicaid Optional Services only in the case that non-federal fund appropriations provided for FY 2016 in all other items of appropriation for Medicaid are insufficient to pay appropriate Medicaid claims for FY 2016 when combined with federal matching funds.*

**Agency Response:** “Medicaid had sufficient funding in both the Medicaid Mandatory Services and Medicaid Optional Services line items to cover growth and other changes as authorized by the Legislature and did not need to use the Consensus buffer.”

**20. All Medicaid Coverage to Follow Best Practices to Reduce Tobacco Use (H.B. 3, Item 206):**

*The Legislature intends that in order to decrease tobacco use and more effectively utilize state resources, that all Medicaid coverage will adhere to United States Preventative Services recommended evidence-based practices which are proven to reduce tobacco use, including both counseling and all FDA-approved methods of pharmacotherapy with no or minimal cost sharing as directed by the Department of Health.*

**Agency Response:** “Medicaid coverage adheres to the United States Preventative Services recommended practices and includes all FDA-approved tobacco cessation therapies, either as part of the Preferred Drug List or with a prior authorization.”

**21. Eligibility Ceiling for Health Coverage Improvement Program (H.B. 3, Item 206):**

*The Legislature intends that the income eligibility ceiling for FY 2017 shall be the following percent of federal poverty level for UCA 26-18-411 Health Coverage Improvement Program: i.*



0% for individuals who meet the additional criteria in 26-18-411 Subsection (3) ii. 55% for an individual with a dependent child.

**Agency Response:** "These requirements are part of ongoing discussion with CMS regarding the extension of Medicaid benefits to adults. The Department has submitted a State Plan Amendment request that CMS move the income limits for individuals with dependent children to 55% of the federal poverty level. To date, the request has not been approved; however, the Department continues to work with CMS. The income limit of 0% of the federal poverty level for individuals who meet the additional criteria in UCA 26-18-411 Subsection (3) ii is described in the waiver request."

## 22. Refund to Hospitals From Prior Year Assessments (H.B. 3, Item 18):

*The Legislature intends that \$1,222,700 in the fund created under Section 26-36a-207 from prior fiscal year hospital assessments shall be refunded to the hospitals in proportion to the amount paid by each hospital no later than April 15, 2016.*

**Agency Response:** "The Department refunded the \$1,227,700 by the April 15, 2016 deadline."

## 23. Attorney for the Department of Health (H.B. 2, Item 55):

*The Legislature intends that the Inspector General of Medicaid Services pay the Attorney General's Office the full state cost of the one attorney FTE that it is using at the Department of Health.*

**Agency Response:** "The attorney utilized by the Inspector General of Medicaid Services was not paid for by the Department of Health, therefore it is assumed that the Inspector General has paid these costs."

## 24. Remove Five Year Waiting Period for Legal Immigrant Children for Medicaid and CHIP (H.B. 2, Item 58 and S.B. 3, Item 84):

*The Legislature intends that the Department of Health remove the optional 5 year waiting period for legal immigrant children who currently qualify for 100% federal funding in the Medicaid and Children's Health Insurance program.*

**Agency Response:** "The Department of Health worked with the Department of Workforce Services to implement this change on July 1, 2016. Eligibility policy no longer requires that a lawfully present resident child wait for five years to receive full Medicaid or CHIP coverage if they meet all the other applicable eligibility requirements."

## 25. Direction for New Funding for Baby Watch Early Intervention Program (H.B. 2, Item 56):

*The Legislature intends that all new funding provided from any sources for the building block entitled "Baby Watch Early Intervention Program" shall be used to provide direct services.*

**Agency Response:** "\$1,500,000 was incorporated into the contracts with local providers for direct services to clients."

## 26. Direction for New Funding for Medically Complex Children's Waiver (H.B. 2, Item 60):

*The Legislature intends that all one-time appropriations provided in fiscal year 2017 for the building block entitled "Increase Caseload for Medically Complex Children's Waiver" be used to the maximal extent that is possible for opening new slots for children who meet criteria for this waiver.*

**Agency Response:** "Funding was used to increase the number of participants in the program by 154."

**27. Direction to Raise Cremation Fee April 1, 2016 (S.B. 3, Item 83):**

*The Legislature authorizes the Department of Health to raise the fee entitled, "Review and authorize cremation" in Chapter 280, Laws of Utah 2015 to \$100 effective April 1, 2016.*

**Agency Response: "The cremation fee was increased effective April 1, 2016. The resulting increase in revenue has been and will continue to be used to address the Office of the Medical Examiner staff shortage and the continuing caseload increases."**

**28. Authorization to Raise Fees Connected to Increased Medicaid Reimbursement Rates (H.B. 8, Lines 3652 to 3655):**

*Clinic Fees Tied to Medicaid Reimbursement Levels - The Department of Health benchmarks many of its charges in its medical and dental clinics to Medicaid reimbursement rates. If the Legislature authorizes reimbursement increases during the General Session, then the Legislature authorizes a proportional increase in effected clinic fees.*

**Agency Response: "Medical clinic office visit fees were increased to bring them in line with the Medicaid rates."**

**29. Two Percent and Other Increases for Medicaid Accountable Care Organizations (H.B. 2, Item 59):**

*The Legislature intends that the Medicaid Accountable Care Organizations receive a scheduled two percent increase effective January 1, 2017 consistent with the intent of S.B. 180, 2011 General Session. Additionally, the Legislature intends that the Medicaid Accountable Care Organizations receive funding to cover the cost of caseload growth, FMAP changes, and new high cost pharmaceuticals for rates set effective July 1, 2016.*

**Agency Response: "Effective January 1, 2017 ACO rate adjustments will include a 2% increase pending CMS approval. Effective July 1, 2016 funding to cover the cost of caseload growth, FMAP changes, and high cost pharmaceuticals was included in the rates submitted to CMS for approval."**

**Reports Required via Intent Language from the 2016 General Session**

**30. Study of Continuous 12-month Enrollment for Children on CHIP and Medicaid (H.B. 2, Item 58):**

*The Legislature intends that the Department of Health shall study enrollment trends for children in the CHIP and Medicaid programs. The Department of Health shall assess the estimated relative costs to the state of the current practice month-to-month eligibility vs. continuous 12-month enrollment for children. Cost estimates should also include if possible estimates of increased costs to the state related to care needed due to adverse outcomes related to delays in diagnoses and treatments related to the current practice of month-to-month eligibility. The Department of Health will work with stakeholders and report findings to the Office of the Legislative Fiscal Analyst by August 30, 2016.*

**Agency Response: "The Department completed the study of continuous 12-month enrollment for children on CHIP and Medicaid and reported findings to the Office of the Legislative Fiscal Analyst by August 30, 2016." See <http://le.utah.gov/interim/2016/pdf/00003485.pdf>.**

**31. Study of Options to Keep People Out of Nursing Homes (S.B. 3, Item 84):**

*The Legislature intends that the Department of Health and Department of Human Services study all possible options to maximize the number of people kept out of nursing homes and in their own homes and communities and report findings and recommendations to the Office of the Legislative Fiscal Analyst by June 1, 2016. This should include the consideration of at least the following options: (1) Modifying or expanding current Home and Community Based Services*

(HCBS), 1915(c) waivers, (2) Creating new HCBS, 1915(c) waivers, (3) State Plan HCBS, 1915(i) options, (4) Money Follows the Person Grant, (5) Community First Choice Option, 1915(k), and (6) Balancing Incentive Program.

**Agency Response:** “The Department completed the study of options to keep people out of nursing homes and reported findings to the Office of the Legislative Fiscal Analyst by June 1, 2016.” See <http://le.utah.gov/interim/2016/pdf/00002539.pdf>.

### **32. Report on Maintenance of Effort for all Major Federal Grants (H.B. 7, Item 1):**

*The Legislature intends the Departments of Health, Human Services, and Workforce Services and the Utah State Office of Rehabilitation report to the Office of the Legislative Fiscal Analyst by June 1, 2016 on maintenance of effort (MOE) requirements for all major federal grants over \$500,000 annually. The report shall include at a minimum a five year history (2011 to 2015) of: (1) maintenance of effort payments for each grant, including showing how much was paid above the minimum required levels, (2) the appropriate federal references with key language regarding each grant's MOE requirements, (3) how much state funding has been replaced, if any, with third party expenditures for maintenance of effort and how that state funding was used, (4) what is the minimum federally-required MOE for each grant, (5) options for how to reduce MOE annual amounts while continuing to comply with federal MOE requirements, and (6) how MOE requirements have changed and the impacts of those changes.*

**Agency Response:** “This report was submitted as requested on June 1, 2016.” See <http://le.utah.gov/interim/2016/pdf/00002486.pdf>.

### **33. Report on Third Party Match Usage for all Major Federal Grants (H.B. 7, Item 1):**

*The Legislature intends that the Departments of Health, Human Services, Workforce Services, and the Utah State Office of Rehabilitation provide a report to the Office of the Legislative Fiscal Analyst by June 1, 2016 on the following for all major federal grants over \$500,000 annually a five year history (2011 to 2015): (1) a list and dollar value of all expenditures by a third party used to count as its state match to access federal funds (2) under what scenarios could third party match become unavailable (3) any federal proposals to disallow counting third party match (4) what the agency would change in the future for its spending if third party match is no longer available.*

**Agency Response:** “This report was submitted as requested on June 1, 2016.” See <http://le.utah.gov/interim/2016/pdf/00002488.pdf>.

### **34. Report on Opioid Pain Medications Dispensed (H.B. 7, Item 3):**

*The Legislature intends that the Department of Health shall report to the Office of the Legislative Fiscal Analyst by April 30, 2016 on the total amount of opioid pain medications dispensed per capita, as morphine equivalent dosages, and may include other measures of risky opioid prescribing that the Department determines to be useful for understanding the influence of opioid prescribing on overdose deaths in Utah. Data shall be shared as far as is readily available back through 2000.*

**Agency Response:** “This report was submitted as requested and can be found at <http://health.utah.gov/vipp/pdf/RxDrugs/PrescribingPracticeInUtah.pdf>.”

### **35. Report on Allowing a Three Month Supply of Some Medicaid Medications (H.B. 7, Item 7):**

*The Legislature intends that the Department of Health report to the Office of the Legislative Fiscal Analyst by April 1, 2016 on the following regarding its plan to allow a three month supply of some Medicaid medications: (1) the Departments proposed plan, (2) proposed timeline of*

important action items, (3) how the agency will measure the financial impact to the State from making this change, and (4) the date on which the Department intends to report back on having finished the implementation.

**Agency Response:** “The Department completed the report on allowing a three month supply of some Medicaid medications and reported findings to the Office of the Legislative Fiscal Analyst by April 1, 2016.” See

[https://medicaid.utah.gov/Documents/pdfs/legislative%20reports/fiscal%20analyst/GenericMed\\_3MonthSupplyProgram2016.pdf](https://medicaid.utah.gov/Documents/pdfs/legislative%20reports/fiscal%20analyst/GenericMed_3MonthSupplyProgram2016.pdf).

**36. Report on S.B. 172, Emergency Medical Services Amendments (H.B. 7, Item 25):**

*The Legislature intends that the Department of Health report to the Office of the Legislative Fiscal Analyst by December 1, 2016 the financial impacts to ambulance providers due to the implementation of S.B. 172, Emergency Medical Services Amendments, from the 2015 General Session. The report shall address (1) current and projected future impact to the reimbursement rates for ambulance providers set by the State and (2) the impact to the financial viability of ambulance providers in the State.*

**Agency Response:** “Report has been submitted as requested.” The report is available at <http://health.utah.gov/legislative-reports/EMSP16.pdf>.

**37. Quarterly Status Reports on Replacement of Medicaid Management Information System (H.B. 2, Item 59):**

*The Legislature intends that the Department of Health report quarterly to the Office of the Legislative Fiscal Analyst on the status of replacing the Medicaid Management Information System replacement beginning September 30, 2016. The reports should include, where applicable, the responses to any requests for proposals. At least one report during Fiscal Year 2017 should include an updated estimate of net ongoing impacts to the State from the new system. The Department of Health should work with other agencies to identify any impacts outside its agency.*

**Agency Response:** “Medicaid will report on a quarterly basis to the Legislative Fiscal Analyst. The quarterly MMIS status reports can be found at the following site:

<https://medicaid.utah.gov/Legislative-Reports>.”

**38. Performance Measures for New Funding (H.B. 2, Item 55 and S.B. 3, Item 81):**

*The Legislature intends that the Department of Health prepare proposed performance measures for all new funding for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 1, 2016. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Department of Health shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2016 with another report two months after the close of fiscal year 2017. The Office of the Legislative Fiscal Analyst shall share this information with the legislative staff of the Health and Human Services Interim Committee.*

**Here are the links to the required reports:**

**(1) June 1, 2016 -** <http://le.utah.gov/interim/2016/pdf/00002490.pdf>

**(2) October 31, 2016 -** <http://le.utah.gov/interim/2017/pdf/00000085.pdf>

**39. Performance Measures for Executive Director's Operations Line Item (H.B. 7, Item 24):**



*The Legislature intends that the Department of Health report on the following performance measures for the Executive Director's Operations line item: (1) conduct risk assessments for each information system in operation (Target = 111 information systems), (2) Births occurring in a hospital are entered accurately by hospital staff into the electronic birth registration system within 10 calendar days (Target = 99%), and (3) percentage of all deaths registered using the electronic death registration system (Target = 75% or more) by October 15, 2016 to the Social Services Appropriations Subcommittee.*

**The report is available at** <http://le.utah.gov/interim/2017/pdf/00000107.pdf>.

#### **40. Performance Measures for Family Health and Preparedness Line Item (H.B. 7, Item 25):**

*The Legislature intends that the Department of Health report on the following performance measures for the Family Health and Preparedness line item: (1) the percent of children who demonstrated improvement in social-emotional skills, including social relationships (Goal = 70% or more), (2) the percent of children who demonstrated improvement in their rate of growth in acquisition and use of knowledge and skills, including early language/communication and early literacy (Goal = 72.5% or more), and (3) the percent of children who demonstrated improvement in their rate of growth in the use of appropriate behaviors to meet their needs (Goal = 73.5% or more) by October 15, 2016 to the Social Services Appropriations Subcommittee.*

**The report is available at** <http://le.utah.gov/interim/2017/pdf/00000107.pdf>.

#### **41. Performance Measures for Disease Control and Prevention Line Item (H.B. 7, Item 26):**

*The Legislature intends that the Department of Health report on the following performance measures for the Disease Control and Prevention line item: (1) gonorrhea cases per 100,000 population (Target = 42.7 people or less), (2) percentage of adults who are current smokers (Target = 9%), and (3) percentage of toxicology cases completed within 14 day goal (Target = 100%) by October 15, 2016 to the Social Services Appropriations Subcommittee.*

**The report is available at** <http://le.utah.gov/interim/2017/pdf/00000107.pdf>.

#### **42. Performance Measures for Local Health Departments Line Item (H.B. 7, Item 28):**

*The Legislature intends that the Department of Health report on the following performance measures for the Local Health Departments line item: (1) number of local health departments that maintain a board of health that annually adopts a budget, appoints a local health officer, conducts an annual performance review for the local health officer, and reports to county commissioners on health issues (Target = 13 or 100%), (2) number of local health departments that provide communicable disease epidemiology and control services including disease reporting, response to outbreaks, and measures to control tuberculosis (Target = 13 or 100%), (3) number of local health departments that maintain a program of environmental sanitation which provides oversight of restaurants food safety, swimming pools, and the indoor clean air act (Target = 13 or 100%), (4) achieve and maintain an effective coverage rate for universally recommended vaccinations among young children up to 35 months of age (Target = 90%), (5) reduce the number of cases of pertussis among children under 1 year of age, and among adolescents aged 11 to 18 years (Target = 73 or less for infants and 322 cases or less for youth), and (6) local health departments will increase the number of health and safety related school buildings and premises inspections by 10% (from 80% to 90%) by October 15, 2016 to the Social Services Appropriations Subcommittee.*

**The report is available at** <http://le.utah.gov/interim/2017/pdf/00000107.pdf>.

#### **43. Performance Measures for Workforce Financial Assistance Line Item (H.B. 7, Item 29):**



*The Legislature intends that the Department of Health report on the following performance measures for the Workforce Financial Assistance line item: (1) the number of applications received for this program (Target = 4), (2) the number of awards given (Target = 4), and (3) the average time to process applications through time of award (Target = 15 work days) by October 15, 2016 to the Social Services Appropriations Subcommittee.*

**The report is available at** <http://le.utah.gov/interim/2017/pdf/00000107.pdf>.

**44. Performance Measures for Rural Physicians Loan Repayment Assistance Line Item (H.B. 7, Item 30):**

*The Legislature intends that the Department of Health report on the following performance measures for the Rural Physicians Loan Repayment Assistance line item: (1) health care professionals serving rural areas (Target = 15) and (2) rural physicians serving rural areas (Target = 15) by October 15, 2016 to the Social Services Appropriations Subcommittee.*

**The report is available at** <http://le.utah.gov/interim/2017/pdf/00000107.pdf>.

**45. Performance Measures for Medicaid and Health Financing Line Item (H.B. 7, Item 31):**

*The Legislature intends that the Department of Health report on the following performance measures for the Medicaid and Health Financing line item: (1) average decision time on pharmacy prior authorizations (Target = 24 hours or less), (2) percent of clean claims adjudicated within 30 days of submission (Target = 98%), and (3) total count of Medicaid and CHIP clients educated on proper benefit use and plan selection (Target = 115,000 or more) by October 15, 2016 to the Social Services Appropriations Subcommittee.*

**The report is available at** <http://le.utah.gov/interim/2017/pdf/00000107.pdf>.

**46. Performance Measure for Medicaid Sanctions Line Item (H.B. 7, Item 32):**

*The Legislature intends that the Department of Health report on how expenditures from the Medicaid Sanctions line item met federal requirements which constrain its use by October 15, 2016 to the Social Services Appropriations Subcommittee.*

**The report is available at** <http://le.utah.gov/interim/2017/pdf/00000107.pdf>.

**47. Performance Measures for Children's Health Insurance Program Line Item (H.B. 7, Item 33):**

*The Legislature intends that the Department of Health report on the following performance measures for the Children's Health Insurance Program line item: (1) percent of children less than 15 months old that received at least six or more well-child visits (Target = 70% or more), (2) percent of members (12 - 21 years of age) who had at least one comprehensive well-care visit (Target = 39% or more), and (3) percent of children 5-11 years of age with persistent asthma who were appropriately prescribed medication (Target = 94% or more) by October 15, 2016 to the Social Services Appropriations Subcommittee.*

**The report is available at** <http://le.utah.gov/interim/2017/pdf/00000107.pdf>.

**48. Performance Measures for Medicaid Mandatory Services Line Item (H.B. 7, Item 34):**

*The Legislature intends that the Department of Health report on the following performance measures for the Medicaid Mandatory Services line item: (1) percent of adults age 45-64 with ambulatory or preventive care visits (Target = 88% or more), (2) percent of deliveries that had a post partum visit between 21 and 56 days after delivery (Target = 60% or more), and (3)*

*percent of customers satisfied with their managed care plan (Target = 85% or more) by October 15, 2016 to the Social Services Appropriations Subcommittee.*

**The report is available at** <http://le.utah.gov/interim/2017/pdf/00000107.pdf>.

**49. Performance Measures for Medicaid Optional Services Line Item (H.B. 7, Item 35):**

*The Legislature intends that the Department of Health report on the following performance measures for the Medicaid Optional Services line item: (1) annual state general funds saved through preferred drug list (Target = \$14.0 million general fund or more), (2) count of new choices waiver clients coming out of nursing homes into community based care (Target = 390 or more), and (3) emergency dental program savings (Target = \$850,000 General Fund savings or more) by October 15, 2016 to the Social Services Appropriations Subcommittee.*

**The report is available at** <http://le.utah.gov/interim/2017/pdf/00000107.pdf>.

**50. Performance Measures for Ambulance Service Provider Assessment Fund (H.B. 7, Item 52):**

*The Legislature intends that the Department of Health report on the following performance measures for the Ambulance Service Provider Assessment Fund: (1) percentage of providers invoiced (Target = 100%), (2) percentage of providers who have paid by the due date (Target = 85%), and (3) percentage of providers who have paid within 15 days after the due date (Target = 99%) by October 15, 2016 to the Social Services Appropriations Subcommittee.*

**The report is available at** <http://le.utah.gov/interim/2017/pdf/00000107.pdf>.

**51. Performance Measures for Traumatic Brain Injury Fund (H.B. 7, Item 53):**

*The Legislature intends that the Department of Health report on the following performance measures for the Traumatic Brain Injury Fund: (1) number of individuals with TBI that received resource facilitation services through the TBI Fund contractors (Target = 300), (2) number of TBI Fund clients in need of a neuro-psych exam that receive an exam (Target = 40), and (3) number of community and professional education presentations and trainings (Target = 50) by October 15, 2016 to the Social Services Appropriations Subcommittee.*

**The report is available at** <http://le.utah.gov/interim/2017/pdf/00000107.pdf>.

**52. Performance Measures for Traumatic Head and Spinal Cord Injury Rehabilitation Fund (H.B. 7, Item 54):**

*The Legislature intends that the Department of Health report on the following performance measures for the Traumatic Head and Spinal Cord Injury Rehabilitation Fund: (1) number of clients that received an intake assessment (Target = 101), (2) number of physical, speech or occupational therapy services provided (Target = 1,200), and (3) percent of clients that returned to work and/or school (Target = 50%) by October 15, 2016 to the Social Services Appropriations Subcommittee.*

**The report is available at** <http://le.utah.gov/interim/2017/pdf/00000107.pdf>.

**53. Performance Measures for Organ Donation Contribution Fund (H.B. 7, Item 55):**

*The Legislature intends that the Department of Health report on the following performance measures for the Organ Donation Contribution Fund: (1) increase Division of Motor s/Drivers License Division donations from a base of \$90,000 (Target = 3%), (2) increase donor registrants from a base of 1.5 million (Target = 2%), and (3) increase donor awareness*

education by obtaining one new audience (Target = 1) by October 15, 2016 to the Social Services Appropriations Subcommittee.

**The report is available at** <http://le.utah.gov/interim/2017/pdf/00000107.pdf>.

## Nonlapsing Balances

Under the Budgetary Procedures Act ([UCA 63J-1-602](#)), no revenue collection, appropriation from a fund or account, or appropriation to a program may be treated as nonlapsing unless:

1. It is expressly referenced in [UCA 63J-1-602](#)
2. It is designated in a condition of appropriation in the appropriations bill, or
3. Nonlapsing authority is granted under [UCA 63J-1-603](#).

[UCA 63J-1-602](#) also states that “each legislative appropriations subcommittee shall review the accounts and funds that have been granted nonlapsing authority under this section of Section [63J-1-603](#).”

The table below details the \$2,359,300 in nonlapsing balances at the end of FY 2016 for the Department of Health that came from UCA 63J-1-602.1.

The Office of the Legislative Fiscal Analyst presented a statewide report entitled, “FY 2016 Preliminary Lapsing and Nonlapsing Balances Report,” to the Executive Appropriations Committee in October of 2016. The report is available at <http://le.utah.gov/interim/2016/pdf/00004065.pdf>.

| Division & Program                                | Nonlapsing Authority | Amount     | Restrictions  | Reason   |
|---|----------------------|------------|---|--|
| <b>Family Health and Preparedness</b>             |                      |            |   |  |
| Primary Care Grants                               | UCA 63J-1-602.1(10)  | \$ 931,400 | "Award a grant to a public or nonprofit entity to provide primary health care to a medically underserved population."   |  |
| <b>Workforce Financial Assistance</b>             |                      |            |   |  |
| Workforce Loan Program                            | UCA 63J-1-602.1(14)  | \$ 585,300 | Statute provides for professional educational loan repayment and scholarship assistance to health care professionals who locate or continue to practice in medically underserved areas of Utah. | Funds are obligated but dispersed across state fiscal years. Contracts may range from 2 to 4 years in length for contractual service obligations for health care professionals providing primary health care services to Utah's medically underserved populations. |
| <b>Rural Physicians Loan Repayment Assistance</b> |                      |            |   |  |
| Rural Physician Loan Repayment Program            | UCA 63J-1-602.1(15)  | \$ 201,500 | education loan repayment assistance contract with a physician   |  |
| <b>Children's Health Insurance Program (CHIP)</b> |                      |            |   |  |
| CHIP  | UCA 63J-1-602.1(13)  | \$ 641,100 | Use of all nonlapsing funds limited to caseload and utilization increases   | State statute requires the CHIP program to serve all clients who qualify for services.   |

## Overview of Intent Language From the 2015 General Session

The following 20 items of intent language were passed in the 2015 General Session. These items could not be fully reviewed until the close of FY 2016. Most of these items were partially reviewed in an Issue Brief from the 2016 General Session entitled “Intent Language and Nonlapsing Balances Follow-up (Health)” (<http://le.utah.gov/interim/2016/pdf/00000278.pdf>). These 20 statements can be grouped into the following three categories:

1. Providing nonlapsing authority of more than \$8.4 million in FY 2016 from FY 2015 funds (16 intent language statements). Three intent language statements provided unlimited nonlapsing authority. The table below details the \$7.7 million retained under nonlapsing authority provided. The Department of Health has \$6.3 million in nonlapsing funds from the intent language statements with specific maximums.

2. Providing specific direction (three intent language statements)
3. Requiring a report (one intent language statements)

Agency-initiated requests for nonlapsing authority for General Fund resulted in 1.7% of General Fund appropriated in FY 2015 being retained as nonlapsing funds for those divisions with initiatives for nonlapsing authority. The table on the next page has a summary of this information. Some of the nonlapsing requests listed below were to retain funds other than General Fund or were not initiated by the Department of Health.

| Nonlapsing Authority Via Intent Language           |                    |                     |
|--|--------------------|---------------------|
| Purpose  | Authorized Total   | Actual Nonlapsing   |
| Medicaid Management Information System Replacement | \$3,500,000        | \$3,500,000         |
| Medicaid Telehealth Equipment                      | \$1,000,000        | \$1,000,000         |
| Medicaid Sanctions                                 | all                | \$982,900           |
| Federally Mandated Projects (Medicaid)             | \$475,000          | \$475,000           |
| Executive Director - Four Projects                 | \$375,000          | \$375,000           |
| Childcare and Health Care - Fines                  | all                | \$256,800           |
| Health Facility Licensure                          | \$245,000          | \$245,000           |
| Emergency Medical Services - Fees                  | \$250,000          | \$244,800           |
| Facility Plan Review Activities                    | \$210,000          | \$201,700           |
| Laboratory Equipment (Epidemiology)                | \$175,000          | \$175,000           |
| Emergency Medical Services - Fines                 | all                | \$144,800           |
| Traumatic Brain Injury Funding                     | \$625,000          | \$52,400            |
| Laboratory Equipment and Medical Examiner          | \$525,000          | \$26,900            |
| Bleeding Disorders Program                         | \$50,000           | \$15,300            |
| Newborn Screening                                  | \$250,000          | \$0                 |
| Computer Equipment (Executive)                     | \$225,000          | \$0                 |
| Drug Prevention Programs                           | \$500,000          | \$0                 |
| <b>Total</b>                                       | <b>\$8,405,000</b> | <b>\$ 7,695,600</b> |

| Summary of Agency-initiated Requests |                                   |                        |             |
|--------------------------------------|-----------------------------------|------------------------|-------------|
| Line Item                            | FY 2015 Appropriated General Fund | Nonlapsed General Fund | %           |
| Medicaid and Health Financing        | \$ 5,884,100                      | \$ 1,475,000           | 25%         |
| Family Health and Preparedness       | \$ 19,884,000                     | \$ 15,300              | 0%          |
| Disease Control and Prevention       | \$ 12,627,700                     | \$ 201,900             | 2%          |
| Executive Director's Operations      | \$ 6,145,700                      | \$ 375,000             | 6%          |
| Medicaid Mandatory Services          | \$ 288,513,100                    | \$ 3,500,000           | 1%          |
| <b>Total</b>                         | <b>\$ 333,054,600</b>             | <b>\$ 5,567,200</b>    | <b>1.7%</b> |

### Nonlapsing Authority Via Intent Language From the 2015 General Session

#### 1. Nonlapsing Authority for Four Projects in the Executive Director's Office (H.B. 3, Item 75):

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Department of Health's Executive Director's Office in Item 20 of Chapter 13,*

*Laws of Utah 2014 shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to \$375,000 for: (1) federal indirect reimbursement of \$150,000 due to an over-collection of Department of Technology Services encryption costs during FY 2015. The federal reimbursement will be reflected in lower indirect rates for Fiscal Year 2016; (2) Rewrite of the Utah Medical Examiners Database and the Electronic Death Entry Network which do not support mobile device and broad Internet interfaces; (3) Replacement of personal computers, software development, and information technology equipment in Executive Directors Office; and (4) Temporary Information Technology Manager to support server consolidation efforts and implementation of the Change Management initiative. (The agency nonlapsed \$375,000).*

**Agency Response:** “The Executive Director’s Office used the funds in accordance with the limitations specified.”

## **2. Nonlapsing Authority for Health Facility Licensure and Certification Activities (H.B. 3, Item 76):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$245,000 of Item 21 of Chapter 13, Laws of Utah 2014 for the Department of Health's Family Health and Preparedness line item not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to health facility licensure and certification activities. (The agency nonlapsed \$245,000).*

**Agency Response:** “This non lapsing authority allows for more [continuous] funding from an irregular funding source. These funds were utilized to support the background screening program and to support the health facility licensing inspection program. These positions are sorely needed to comply with state licensure and federal certification survey mandates which affect health facilities.”

## **3. Nonlapsing Authority for Testing Supplies and Processes for Emergency Medical Services (H.B. 3, Item 76):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$250,000 of Item 21 of Chapter 13, Laws of Utah 2014 for the Department of Health's Emergency Medical Services shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to testing, certifications, background screenings, replacement testing equipment and testing supplies. (The agency nonlapsed \$244,800).*

**Agency Response:** “Nonlapsing authority allows for an improved continuous funding from an irregular funding source. The Bureau intends to use these balances as prescribed in the Emergency Medical Services program to further the efforts of Emergency Medical Services. The funds were used for EMS certification, background screenings, and on-going training in a four-year certification cycle for all EMS certified personnel.”

## **4. Nonlapsing Authority for Criminal Fine and Forfeiture Money for Emergency Medical Services (H.B. 3, Item 76):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that criminal fines and forfeiture money collected for the Department of Health's Emergency Medical Services in Item 21 of Chapter 13, Laws of Utah 2014 shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to purposes outlined in Section 26-8a-207(2). (The agency nonlapsed \$144,800).*

**Agency Response:** “Nonlapsing authority allows for funding in accordance with Section 26-8a-207(2). The Bureau intends to use these balances as prescribed in the Section. The funds were used for staff support, administration of the grants funds, other administrative costs defined in the



**chapter, trauma system development, and allocations in per-capita and competitive grants for the provision of emergency medical services.”**

**5. Nonlapsing Authority for Civil Penalty Money from Childcare and Health Care Provider Violations (H.B. 3, Item 76):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that civil money penalties collected for the Department of Health's Child Care Licensing and Health Care Licensing in Item 21 of Chapter 13, Laws of Utah 2014 from childcare and health care provider violations shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to trainings for providers and staff, as well as upgrades to the Child Care Licensing database. (The agency nonlapsed \$256,800).*

**Agency Response: “Health care civil money penalty funds from nursing facilities are restricted by federal law for use with projects that directly affect patients of nursing facilities. Other licensure civil money penalty funds may be used for training and other projects that benefit health facility providers. There were no projects proposed or initiated during FY 2016. Child Care Licensing used the other civil money penalty funds for training staff and enhancements to the Child Care Licensing database.”**

**6. Nonlapsing Authority for Bureau of Health Facility Licensure, Certification and Resident Assessment for Plan Reviews (H.B. 3, Item 76):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$210,000 of Item 21 of Chapter 13, Laws of Utah 2014 from fees collected for the purpose of plan reviews by the Department of Health's Bureau of Health Facility Licensure, Certification and Resident Assessment shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to plan review activities. (The agency nonlapsed \$201,700).*

**Agency Response: “This non lapsing authority allows for more continuous funding from an irregular funding source. The nonlapsing funds for Health Facility Licensing/Certification were used for evaluating health care facility new construction and remodel projects in order to ensure compliance with appropriate health and fire codes in accordance with [state] health facility construction rules. The funds were used for salaries for architects and inspection staff to complete construction inspections.”**

**7. Nonlapsing Authority for People with Bleeding Disorders (H.B. 3, Item 76):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$50,000 of Item 21 of Chapter 13, Laws of Utah 2014, funds appropriated for the Department of Health's Assistance for People with Bleeding Disorders Program shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to services to eligible clients. (The agency nonlapsed \$15,300).*

**Agency Response: “Funds were incorporated in the distribution of funds for eligible bleeding disorder clients.”**

**8. Nonlapsing Authority for Equipment and Services for the Bureau of Epidemiology (H.B. 3, Item 77):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$175,000 of Item 22 of Chapter 13, Laws of Utah 2014 for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to maintenance or replacement of computer equipment, software, or other*

*purchases or services that improve or expand the services provided by the Bureau of Epidemiology. (The agency nonlapsed \$175,000).*

**Agency Response:** “\$175,000 was nonlapsed and was used to develop and replace software to improve disease tracking and surveillance reporting; for software to improve reporting and linkage of data generated by the Office of Medical Examiner; and for Lab equipment that improves the capability for disease identification.”

**9. Nonlapsing Authority for Laboratory Equipment and Building Improvements (H.B. 3, Item 77):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$525,000 of Item 22 of Chapter 13, Laws of Utah 2014 for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to laboratory equipment, computer equipment, software, and building improvements. (The agency nonlapsed \$26,900).*

**Agency Response:** “\$26,900 was nonlapsed and was used to replace obsolete laboratory testing instruments in the Chemistry Lab.”

**10. Nonlapsing Authority for Computer Equipment and to Comply With Federally-mandated Projects in Health Care Financing (H.B. 3, Item 78):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends up to \$475,000 provided for the Department of Health's Medicaid and Health Financing line item in Item 24 of Chapter 13, Laws of Utah 2014 shall not lapse at the close of Fiscal Year 2015. The use of nonlapsing funds is limited to compliance with federally mandated projects and the purchase of computer equipment and software. (The agency nonlapsed \$475,000).*

**Agency Response:** “These funds supported the implementation costs of several federally mandated projects in FY 2016 and computer/software purchases. \$425,000 was used as match on the ICD10 – project to update diagnosis codes, 5010 – HIPAA compliance project, HIT – Health Information Technology to convert provider medical records to an electronic health record, TMSIS – Transformed Medicaid Statistical Information System – project to create federal reporting, and 1095 – system upgrades for Affordable Care Act Information Returns (AIR) program. The nonlapsing general funds were used for federal match to cover expenses such as personnel, current expense and data processing current expense of the various projects. \$50,000 was expended to replace computer equipment and software.”

**11. Nonlapsing Authority for Telehealth Equipment in Health Care Financing (H.B. 3, Item 78):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends up to \$1,000,000 provided for the Department of Health's Medicaid and Health Financing line item in Item 70 of Chapter 282, Laws of Utah 2014 shall not lapse at the close of Fiscal Year 2015. The use of nonlapsing funds is limited to the purchase of telehealth equipment. (The agency nonlapsed \$1,000,000).*

**Agency Response:** “Funds were used to provide technical assistance and equipment through the Utah Telehealth Network to entities with approved requests.”

**12. Nonlapsing Authority for Medicaid Management Information System Replacement (H.B. 3, Item 81):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends up to \$3,500,000 provided for the Department of Health's Medicaid Management Information System Replacement in Item 72 of Chapter 282, Laws of Utah 2014 shall not lapse at the close of Fiscal Year 2015. The use of*

*any nonlapsing funds is limited to the redesign and replacement of the Medicaid Management Information System. (The agency nonlapsed \$3,500,000).*

**Agency Response:** “These nonlapsing funds were used to address a portion of the PRISM [Provider Reimbursement Information System for Medicaid] system project costs in FY 2016.”

### **13. Nonlapsing Authority for Medicaid Sanctions (H.B. 3, Item 79):**

*Under Section 63J-1-603 of the Utah Code, funds collected as a result of sanctions imposed under Section 1919 of Title XIX of the Federal Social Security Act and authorized in Section 26-18-3 of the Utah Code shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to the purposes outlined in Section 1919. (The agency nonlapsed \$982,900).*

**Agency Response:** “The Denver Regional Office component of the Western Division of Survey & Certification (WDSC), as delegated by both CMS Central Office Leadership and the WDSC Associate Regional Administrator, must approve the Utah Department of Health, Bureau of Health Facility Licensing to utilize federal Civil Money Penalties (CMPs) for specific nursing facility projects. No projects were proposed or initiated during Fiscal Year 2016.”

### **14. Nonlapsing Authority for Program to Serve Children With Complex Medical Conditions (S.B. 3, Item 124)**

*Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$3,216,000 of the appropriations provided for the Medicaid Optional Services line item not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to a pilot program for assistance for children with disabilities and complex medical conditions to be used in similar amounts over three years with the goal of serving a similar number of clients over three years. (The agency nonlapsed \$2,959,700).*

**Agency Response:** “These nonlapsing funds will be used to fund the pilot program for assistance for children with disabilities and complex medical conditions in FY 2017 and FY 2018.”

### **15. Nonlapsing Authority to Automate and Improve Adoption Records Access (S.B. 77, Lines 546 to 550)**

*The Legislature intends that appropriations provided under this section be used by the office for the purposes described in Subsection 78B-6-144.5(2). Under Section 63J-1-603, the Legislature intends that appropriations provided under this section not lapse at the close of fiscal year 2016. The use of any nonlapsing funds is limited to the purposes described in Subsection 78B-6-144.5(2).*

**Agency Response:** “All available fiscal year 2016 Adoption Records Access funds were expended on the development of the Adoption Registry Database. No funds are available to non lapse into fiscal year 2017.”

### **16. Conditional Funding for Traumatic Brain Injury Fund (S.B. 3, Items 15, 16, and 197):**

*Under Section 63J-1-181 603 of the Utah Code the Legislature intends that up to \$550,000 funds of Item 24 of Chapter 13, Laws of Utah 2014, not otherwise designated as nonlapsing to the Department of Health - Medicaid and Health Financing line item shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is for services to people with traumatic brain injury. (The agency nonlapsed \$52,400).*

*The Legislature intends that the \$550,000 in Beginning Nonlapsing provided to the Traumatic Brain Injury Fund is dependent upon up to \$550,000 funds not otherwise designated*

*as nonlapsing to the Department of Health - Medicaid and Health Financing line item being retained as nonlapsing in FY 2015.*

**Agency Response:** “The nonlapsed funds of \$52,400 were used to provide professional intake assessments, and physical, speech, or occupational therapy services to people with traumatic brain injuries to facilitate them returning to school or work or improving their personal functionality.”

**Specific Direction Provided via Intent Language from the 2015 General Session**

**17. Conditional TANF Funding for Nurse Family Partnership (S.B. 3, Item 113):**

*The \$1,000,000 in federal funds appropriated for the Nurse Family Partnership in the Department of Health in the Family Health and Preparedness line item is dependent upon the availability of and qualification for the Nurse Family Partnership for Temporary Assistance for Needy Families federal funds.*

**Agency Response:** “During State Fiscal Year 2016 the Office of Home Visiting extended funding to 4 local Health Departments (Bear River, Davis, Weber/Morgan and Utah County) to implement home visiting services with TANF funding. As of August 30, 2016, 30 families have been enrolled in the Nurse-Family Partnership (NFP) home visiting model which provides life skill development to improve economic stability, child health by developing healthy relationships and support systems. All four Health Departments continue to focus enrollments in the Nurse-Family Partnership with TANF funding on high risk first time mothers from the third trimester until the child’s second birthday. TANF funding will allow approximately 120 additional families to be served during State Fiscal Year 2017.”

**18. Attorney for the Department of Health (S.B. 2, Item 72):**

*The Legislature intends that the Inspector General of Medicaid Services pay the Attorney General’s Office the full state cost of the one attorney FTE that it is using at the Department of Health.*

**Agency Response:** “Costs for one Attorney General staff were charged to the Office of Inspector General.”

**19. Two Percent Increase for Medicaid Accountable Care Organizations (S.B. 3, Item 121):**

*The Legislature intends that the Medicaid Accountable Care Organizations receive a scheduled two percent increase effective January 1, 2016 consistent with the intent of S.B. 180, 2011 General Session.*

**Agency Response:** “A 2% rate increase was included in the January 1, 2016 ACO rates recently approved by CMS on October 6, 2016.”

**Reports Required via Intent Language from the 2015 General Session**

**20. Quarterly Status Reports on Replacement of Medicaid Management Information System (S.B. 7, Item 17):**

*The Legislature intends that the Department of Health report quarterly to the Office of the Legislative Fiscal Analyst on the status of replacing the Medicaid Management Information System replacement beginning September 30, 2015. The reports should include, where applicable, the responses to any requests for proposals. At least one report during FY 2016*

*should include the first estimate of net ongoing impacts to the State from the new system. (The Department of Health's first estimate of ongoing impacts is \$290,000 General Fund.)*

**Agency Response: "Medicaid will report on a quarterly basis to the Legislative Fiscal Analyst. The quarterly MMIS status reports can be found at the following site:**

**[https://medicaid.utah.gov/Legislative-Reports.](https://medicaid.utah.gov/Legislative-Reports)"**